

SENATE BILL 826

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HB 979/03 - APP

2004 Regular Session  
4r2945

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By: ~~Senator Middleton~~ **Senators Middleton and Dyson**

Introduced and read first time: February 19, 2004

Assigned to: Rules

Re-referred to: Finance, February 23, 2004

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Charles County - Education - School Personnel - Employee Service or**  
3 **Representation Fee**

4 FOR the purpose of authorizing the Charles County Board of Education to negotiate  
5 with a certain employee organization in the county a service or representation  
6 fee to be charged to certain school employees for certain purposes; making this  
7 Act applicable only to school employees hired on or after a certain date; and  
8 generally relating to the negotiation of a service or representation fee to be  
9 charged to certain school employees employed by the Charles County Board of  
10 Education.

11 BY repealing and reenacting, with amendments,  
12 Article - Education  
13 Section 6-407 and 6-504  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2003 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Education**

19 6-407.

20 (a) An employee organization designated as an exclusive representative shall  
21 be the negotiating agent of all public school employees in the unit in the county.

1 (b) (1) An employee organization designated as an exclusive representative  
2 shall represent all employees in the unit fairly and without discrimination, whether  
3 or not the employees are members of the employee organization.

4 (2) In addition, in Montgomery County the exclusive representative shall  
5 represent fairly and without discrimination all persons actually employed as  
6 substitute teachers without regard to whether they are included in § 6-401(d) of this  
7 subtitle as public school employees.

8 (c) (1) In Montgomery County, Prince George's County, Baltimore County,  
9 and Baltimore City, the public school employer may negotiate with the employee  
10 organization designated as the exclusive representative for the public school  
11 employees in a unit, a reasonable service or representation fee, to be charged  
12 nonmembers for representing them in negotiations, contract administration,  
13 including grievances, and other activities as are required under subsection (b) of this  
14 section.

15 (2) The service or representation fee may not exceed the annual dues of  
16 the members of the organization.

17 (3) An employee who is a substitute teacher and who works on a  
18 short-term day-to-day basis is not required to pay a service or representation fee.

19 (4) An employee whose religious beliefs are opposed to joining or  
20 financially supporting any collective bargaining organization is:

21 (i) Not required to pay a service or representation fee; and

22 (ii) Required to pay an amount of money as determined in  
23 paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other  
24 charitable organization as may be mutually agreed upon by the employee and the  
25 exclusive representative, and who furnishes to the public school employer and the  
26 exclusive representative written proof of such payment.

27 (5) (i) In Baltimore County, the provisions of this subsection shall  
28 apply only to employees who are hired on or after July 1, 1997.

29 (ii) The provisions of this paragraph apply if an agency or  
30 representation fee is negotiated in Baltimore County.

31 (iii) 1. Subject to the provisions of sub-subparagraph 2 of this  
32 subparagraph, the employee organization designated as the exclusive representative  
33 for the public school employees shall indemnify and hold harmless the Board of  
34 Education of Baltimore County against any and all claims, demands, suits, or any  
35 other forms of liability that may arise out of, or by reason of, action taken by the  
36 Board for the purpose of complying with any of the agency or representation fee  
37 provisions of the negotiated agreement.

38 2. The Board shall retain without charge to the Board the  
39 services of counsel that are designated by the exclusive representative with regard to

1 any claim, demand, suit, or any other liability that may arise out of, or by reason of,  
2 action taken by the Board for the purpose of complying with any of the agency or  
3 representation fee provisions of the negotiated agreement.

4 (iv) The employee organization designated as the exclusive  
5 representative shall submit to the Board an annual audit from an external auditor  
6 that reflects the operational expenses of the employee organization and explains how  
7 the representation fee is calculated based on the audit.

8 (v) 1. The agency or representation fee shall be based only on  
9 the expenses incurred by the employee organization in its representation in  
10 negotiations, contract administration, including the handling of grievances, and other  
11 activities, as required under this section.

12 2. Any political activities of the employee organization  
13 designated as the exclusive representative may not be financed by the funds collected  
14 from the agency or representation fee.

15 (6) In Montgomery County, an employee who is a home or hospital  
16 teacher and who works on a short-term day-to-day basis is not required to pay a  
17 service or representation fee.

18 (d) (1) In Allegany County, CHARLES COUNTY, Garrett County, and  
19 Washington County, the public school employer may negotiate with the employee  
20 organization designated as the exclusive representative for the public school  
21 employees in a unit, a reasonable service or representation fee, to be charged  
22 nonmembers for representing them in negotiation, contract administration, including  
23 grievances, and other activities specified under subsection (b) of this section.

24 (2) IN CHARLES COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL  
25 APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1, 2004.

26 (e) In Garrett County:

27 (1) A public school employee who is not a member of the employee  
28 organization designated as the exclusive representative for the public school  
29 employees in a unit at the time that a negotiated service or representation fee is  
30 initiated is exempt from the fee provided under subsection (d) of this section; and

31 (2) An individual who becomes a public school employee after the time  
32 that a negotiated service or representation fee is initiated and does not join the  
33 employee organization designated as the exclusive representative is liable for the fee  
34 provided under subsection (d) of this section.

35 6-504.

36 (a) A public school employee may refuse to join or participate in the activities  
37 of employee organizations.

1 (b) (1) In Montgomery County [and], Allegany County, AND CHARLES  
2 COUNTY, the County Board, with respect to noncertificated employees, shall negotiate  
3 a structure of reasonable service fees to be charged nonmembers for representation in  
4 negotiations and grievance matters by employee organizations.

5 (2) IN CHARLES COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL  
6 APPLY ONLY TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2004.

7 (c) In Prince George's County, the County Board shall negotiate an  
8 organizational security provision, commonly known as "agency shop", with employee  
9 organizations.

10 (d) (1) In Anne Arundel County and Baltimore County, the County Board,  
11 with respect to noncertificated employees, may negotiate a structure of reasonable  
12 service fees to be charged nonmembers for representation in negotiations and  
13 grievance matters by employee organizations.

14 (2) In Anne Arundel County, if the County Board negotiates a structure  
15 of fees as authorized under this subsection:

16 (i) Each party shall:

17 1. Confer in good faith, at all reasonable times; and

18 2. Reduce to writing the matters agreed on as a result of the  
19 negotiations; and

20 (ii) Neither party is required to agree to any proposal or to make  
21 any concession.

22 (3) (i) The provisions of this paragraph apply if an agency or  
23 representation fee is negotiated in Baltimore County.

24 (ii) 1. Subject to the provisions of sub-subparagraph 2 of this  
25 subparagraph, the employee organization designated as the exclusive representative  
26 for the public school employees shall indemnify and hold harmless the Board of  
27 Education of Baltimore County against any and all claims, demands, suits, or any  
28 other forms of liability that may arise out of, or by reason of, action taken by the  
29 Board for the purpose of complying with any of the agency or representation fee  
30 provisions of the negotiated agreement.

31 2. The Board shall retain without charge to the Board the  
32 services of counsel that are designated by the exclusive representative with regard to  
33 any claim, demand, suit, or any other liability that may arise out of, or by reason of,  
34 action taken by the Board for the purpose of complying with any of the agency or  
35 representation fee provisions of the negotiated agreement.

36 (iii) The employee organization designated as the exclusive  
37 representative shall submit to the Board an annual audit from an external auditor

1 that reflects the operational expenses of the employee organization and explains how  
2 the representation fee is calculated based on the audit.

3 (iv) 1. The agency or representation fee shall be based only on  
4 the expenses incurred by the employee organization in its representation in  
5 negotiations, contract administration, including the handling of grievances, and other  
6 activities as required under § 6-509 of this subtitle; and

7 2. Any political activities of the employee organization  
8 designated as the exclusive representative may not be financed by the funds collected  
9 from the agency or representation fee.

10 (e) In Baltimore City, the public school employer shall negotiate with the  
11 employee organization designated as the exclusive representative for the public  
12 school employees in a unit, a reasonable service or representation fee to be charged to  
13 nonmembers for representing them in negotiations in the same manner that any such  
14 fee was permitted under law and bargained for prior to January 1, 1997.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 July 1, 2004.